

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

DEYOUNG FAMILY ZOO, a corporation,)	
and HAROLD DEYOUNG, individually,)	
)	No. 2:16-cv-282
Plaintiffs,)	
)	
vs.)	
)	
PEOPLE FOR THE ETHICAL)	
TREATMENT OF ANIMALS, INC. and)	COMPLAINT FOR
MARTI MCDOWELL, individually,)	DECLARATORY AND
)	INJUNCTIVE RELIEF & DEFAMATION
Defendants.)	

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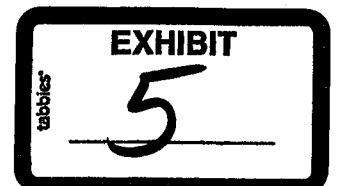
COMPLAINT

COME Now Plaintiffs, DeYoung Family Zoo and Harold DeYoung ("Plaintiffs"), by and through their attorneys, Goldberg Segalla, LLP, by and through their attorneys Kurtis B. Reeg and Lynn A. Lehnert, and respectfully state as follows.

JURISDICTION, VENUE, and GENERAL ALLEGATIONS

1. Plaintiff DeYoung Family Zoo is a private zoo located at located at N5406 County Rd. 577, Wallace, Michigan, 49893; Harold DeYoung is the owner and director of DeYoung Family Zoo (collectively, "Plaintiffs").

2. Defendant People for the Ethical Treatment of Animals, Inc. (PETA) is a militant, activist, animal rights group using its cloak as a non-profit organization to threaten and bring



litigation under the Endangered Species Act as the basis for some of its fundraising activities and makes claims for attorneys' fees under the Equal Access to Justice Act (28 U.S.C. 2412) and other similar laws to fund its litigation war chest in furtherance of two of its goals which are to end private ownership of animals and to have human or non-property rights bestowed upon non-wild, non-human primates, which under applicable law are considered to be private property. Defendant Marti McDowell, upon information and belief, is and/or in this case acted as an informer, snitch, agent, and/or representative of PETA, and is a private citizen who made a previous unfounded complaint against the DeYoung Family Zoo to the United States Department of Agriculture-Animal and Plant Health Inspection Service (USDA-APHIS) in 2014, and who resides in Iron Mountain, Michigan (collectively, "defendants").

3. Defendants have threatened in writing to Plaintiffs and certain federal officers to file a lawsuit against Plaintiffs herein under the Endangered Species Act, 16 U.S.C. § 1538 (a)(1)(B), and its implementing regulation, 50 C.F.R. § 17.21(c)(1). Specifically, defendants allege that Plaintiffs' possession of two chimpanzees constitutes a "taking" in violation of the Endangered Species Act, 16 U.S. C. § 1538(a)(1)(B)¹ ("ESA"). See October 28, 2016 correspondence, attached as Exhibit A.

4. Contrary to Defendants' allegations set forth in their October 28, 2016, letter, Plaintiffs do not own or possess a chimpanzee named "Tommy" but have a chimpanzee which shall be referred to herein as "Chimpanzee #2."

¹ (a) Generally.

(1) Except as provided in sections 6(g)(2) and 10 of this Act [16 USCS §§ 1535(g)(2), 1539], with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act [16 USCS § 1533] it is unlawful for any person subject to the jurisdiction of the United States to:...

(B) take any such species within the United States or the territorial sea of the United States; 16 U.S.C. § 1538(a)(1)(B).

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5. Chimpanzees are listed as endangered under the ESA, 50 C.F.R. §17.11(h), and non-wild chimpanzees are animals included within the list of endangered wildlife under the ESA as of September 14, 2015. 80 Fed.Reg. 34499 (June 16, 2015).

6. This Court has subject matter jurisdiction of this matter pursuant to 28 U.S.C. §1331, because a federal question is presented, *i.e.*, whether or not the possession of the Chimpanzee named Louie and Chimpanzee #2 by Plaintiffs constitutes a "take" in violation of the ESA.

7. Pursuant to 28 U.S.C. § 2201(a) and 28 U.S.C. § 2202, and as more fully set forth herein, an actual, ripe, justiciable controversy exists between Plaintiffs and Defendants so that the Court is authorized to provide Plaintiffs the requested declaratory and injunctive relief.

8. Pursuant to 16 U.S.C. § 1540(g)(5), the injunctive relief provided by citizen suits (such as the one Defendants allege will be filed against the DeYoung Family Zoo and/or Harold DeYoung) to enjoin persons who are alleged to be in violation of any provision of the ESA, shall not restrict any right which any person, or class of persons, may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief. As such, Plaintiffs have the authority and right to file this action.

9. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b)(2), because this is the District in which a substantial part of the events giving rise to the question presented occurred.

COUNT I - Declaratory Judgment

10. The ESA makes it unlawful, with certain exceptions, for any person subject to the jurisdiction of the United States to "take" any endangered species of fish or wildlife "within the United States or the territorial sea of the United States."

11. The ESA defines a "take" of an endangered species as to "**harass, harm**, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." 16 U.S.C. § 1532(19) (emphasis added).

12. The Defendants' notice of their intent to file a lawsuit against Plaintiffs asserts that the bases for their "take" claims against Plaintiffs are based on the "harass" and "harm" elements of the statutory definition of the term "take."

13. The implementing regulations under the ESA, 50 C.F.R. Part 17, define "harass" as used in the definition of "take" to mean "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3. The term "harm" means "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." *Id.*

14. Defendants falsely assert in their notice of claim to Plaintiffs that Plaintiffs are violating the ESA by an ongoing "take" of chimpanzee Louie and Chimpanzee #2, because (1) Plaintiffs isolate Louie and Chimpanzee #2 from any other member of their species and deny them a safe, complex environment, and (2) Plaintiffs expose Louie to harassment by visitors. *See* Exhibit A.

15. Plaintiffs deny Defendants' allegations set forth in their October 28, 2016 letter, Exhibit A attached hereto.

WHEREFORE, Plaintiffs respectfully pray that this Court enter its judgment and decree: declaring that Plaintiffs' housing, care and treatment of their private property, Chimpanzee Louie and Chimpanzee #2, do not constitute a "take" of either under the Endangered Species Act and

are, in fact, in compliance with the Endangered Species Act; awarding Plaintiffs their reasonable attorney fees and litigation costs incurred in preparing for, bringing and prosecuting this action, pursuant to Endangered Species Act, 16 U.S.C. §1540(g)(4), Scales v. J.C. Bradford and Co., 925 F.2d 901, 909-10 (6th Cir. 1991), and Shakopee Mdewakanton Sioux Community v. City of Prior Lake, 771 F.2d 1153, 1160 (8th Cir. 1985); and granting for such other and further relief that this Court deems just and proper.

COUNT II – Injunction

COME NOW Plaintiffs, and for their cause of action for issuance of an Injunction, state as follows:

16. Each and every allegation set forth above in pars. 1-15 inclusive is incorporated herein in Count II by reference, as if fully set forth herein.

17. Defendants have threatened to file suit against Plaintiffs unless Plaintiffs relinquish their private property Chimpanzee Louie and Chimpanzee #2 to an unidentified, undisclosed facility of their own choosing.

18. Pursuant to 16 U.S.C. § 1540(g)(5) and 28 U.S.C. §2202, this Court has the authority to issue in favor of Plaintiffs and against Defendants “further necessary or proper relief based on a declaratory judgment or decree,” including an injunction prohibiting Defendants from filing their threatened lawsuit against Plaintiffs in which they intend to claim that Plaintiffs are violating the ESA.

19. If Defendants are not enjoined and barred from filing their threatened lawsuit against Plaintiffs, as set forth herein, Defendants would be filing harassing, duplicative litigation and

over-burdening the Court in violation of the doctrine and tenets of judicial economy, while in reality attempting to implement its true strategy as set forth in paragraph 2 above.

20. This Court can adequately declare the rights and remedies of the Plaintiffs and Defendants under the Endangered Species Act involving the private property at issue herein in this pending declaratory judgment proceeding.

WHEREFORE, based on the foregoing, Plaintiffs respectfully request that this court issue an injunction in favor of Plaintiffs and against Defendants, enjoining and barring them from filing any action against Plaintiffs based on or arising from any issues or matters asserted, addressed, or raised in their letter of October 28, 2016, attached as Exhibit A herein; waiving the requirement of a bond or setting a de minimus bond given that Defendants themselves will not suffer any harm during the pendency of this litigation than they would not have otherwise suffered if they had proceeded with their threatened ESA action; and grant such other and further relief as this Court deems just and proper.

COUNT III – Defamation

COME NOW Plaintiffs, and for their pendent state law claim of Defamation, state as follows:

21. Each and every allegation set forth above in pars. 1-15 inclusive is incorporated herein in Count II by reference, as if fully set forth herein.

22. On multiple occasions, Defendant PETA has posted and made statements and issued at least one (1) press release (attached hereto as Exhibit B which is incorporated herein) on its website, <http://www.peta.org/action/action-alerts/deyoung-zoo-retire-louie-sanctuary>, and Defendant McDowell has posted and published on social media statements (see Exhibit C incorporated herein), which:

- A. are false and defamatory toward Plaintiffs;
- B. are unprivileged communications to one or more third parties;
- C. exhibit fault on the part of Defendants PETA and McDowell, amounting at least to negligence on the part of these communication publishers PETA and McDowell; and
- D. are either actionable irrespective of special harm (defamation *per se*) or which have resulted in the existence of special harm and damages to Plaintiffs herein.

23. One PETA press release has been picked up by the print and television media which have re-published said false and defamatory statements, thus multiplying the harm experienced by Plaintiffs. *See* Exhibits D and E, which is incorporated herein.

24. Defendants PETA's and McDowell's false, misleading and defamatory statements were made maliciously and/or were so willful and wanton as to demonstrate a reckless disregard of the Plaintiffs' rights, so that exemplary damages are appropriate to be awarded in this case against said Defendants.

25. Since the publication by Defendants PETA and McDowell of their false, misleading and defamatory statements, Plaintiffs have been subject to threats, ridicule, loss of income, attorney's fees and costs, and other damages to be proven at trial.

WHEREFORE, Plaintiffs respectfully request that this Court: find Defendants PETA and/or McDowell have defamed Plaintiffs; award Plaintiffs compensatory and exemplary damages; award Plaintiffs their reasonable attorney fees and litigation costs incurred in preparing for, bringing and prosecuting this action; and grant such other and further relief that this Court deems just and proper.

Date: December 27, 2016

Respectfully submitted,

GOLDBERG SEGALLA LLP

By: /s/ Kurtis B. Reeg
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Attorneys for Plaintiff DeYoung Family Zoo and
Harold DeYoung

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2016, I electronically filed the foregoing United States District Court – Western District of Michigan by using the CM/ECF system.

/s/ Kurtis B. Reeg

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October 28, 2016

**Via E-Mail, First Class Mail,
And Certified Mail, Return Receipt Requested**

Harold L. DeYoung, Owner/Director
DeYoung Family Zoo
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The Honorable Sally Jewell
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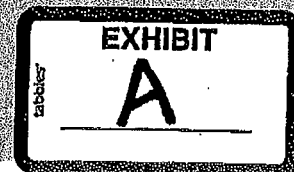
Re: Notice of Intent to File Citizen Suit Pursuant to the Endangered Species Act

Dear Sirs/Madam:

Pursuant to 16 U.S.C. § 1540(g)(2)(A)(i), this letter constitutes notice that People for the Ethical Treatment of Animals, Inc. (PETA) and Marti McDowell intend to file suit against the DeYoung Family Zoo, a Michigan corporation located at N5406 County Rd. 577, Wallace, MI 49893, and Harold DeYoung as an individual and in his capacity as the director of the DeYoung Family Zoo (collectively "DeYoung"), after sixty days, in federal district court pursuant to 16 U.S.C. § 1540(g)(1)(A) for chronic and ongoing violations of the Endangered Species Act (ESA), 16 U.S.C. § 1538(a)(1)(B), and its implementing regulation, 50 C.F.R. § 17.21(c)(1).

Specifically, PETA and McDowell intend to file suit under the ESA against DeYoung to challenge and enjoin the facility's ongoing "take" of the two chimpanzees known individually as Louie and Tommy, unless DeYoung places them in a reputable sanctuary accredited by the

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Global Federation of Animal Sanctuaries (GFAS). Chimpanzees are listed as endangered under the ESA, 50 C.F.R. § 17.11(h), and as of September 14, 2015, captive chimpanzees such as Louie and Tommy are included under the Act's protections, *see* 80 Fed. Reg. 34499 (June 16, 2015) (amending the regulatory language of the ESA's special rules to remove the exclusion of captive chimpanzees from the Act's protections).

Louie and Tommy's inadequate and inhumane conditions, described below, "harm"¹ and "harass"² them within the meaning of the definition of "take" under the ESA, 16 U.S.C. § 1532(19). By continuing to confine Louie and Tommy under these conditions, DeYoung is in violation of the ESA, 16 U.S.C. § 1538(a)(1)(B), and its corresponding regulation, 50 C.F.R. § 17.21(c)(1), which unequivocally prohibit the "take" of chimpanzees and make it unlawful to wound, harass, or harm them, 16 U.S.C. § 1532(19).

PETA has secured placement for Louie and Tommy at an appropriate GFAS-accredited sanctuary and will arrange the placement, transport, and veterinary care necessary for their relocation, should DeYoung wish to correct the ESA violations described below. This sanctuary would provide Louie and Tommy with a large, complex environment that would give them the opportunity to climb, explore, and express species-typical behavior. Through a gradual, safe introduction process, it would also offer Louie and Tommy the opportunity to socialize with other chimpanzees to the extent that each chooses.

DeYoung isolates Louie and Tommy from any other member of their species and denies them a safe, complex environment.

In nature, chimpanzees live in groups and interact with members of their community in myriad and complex ways. They lead active, stimulating lives and form deep and lasting social bonds, which are critical to their long-term health and psychological well-being. They live in multi-male, multi-female, multi-generational communities with unique cultural customs. They have sophisticated methods of communication—through calls, body language, and facial expressions—and engage in affectionate social grooming. Male chimpanzees remain with their natal families for their entire lives and form close social bonds with other males in order to hunt cooperatively, establish social order, protect their mates, and maintain territorial boundaries.

Even though Louie and Tommy are members of a highly social endangered species, the DeYoung Family Zoo confines them in isolation. Louie has been denied the companionship of a single other chimpanzee for the entire six years that DeYoung Family Zoo has held him, nearly his entire life, and Tommy has been denied the companionship of another chimpanzee since his arrival at DeYoung Family Zoo in September 2015. According to the world's leading experts, long-term solitary confinement is extremely distressing for chimpanzees. Louie experienced the psychological trauma of being removed from his mother shortly after birth and has lived in isolation from other chimpanzees during his formative years, which, in terms of emotional trauma, is analogous to placing a human toddler in solitary confinement. It is well-established

¹ "Harm" is defined by regulation as "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3.

² "Harass" means an act which actually kills or injures wildlife." *Id.*

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that isolation and human-rearing of a chimpanzee has long-term negative effects on his behavior and well-being. In the opinion of experts, by holding Louie and Tommy isolated from any other chimpanzee, DeYoung is failing to meet the standard of care that they require to be psychologically healthy, and to remain in such conditions would further impair their psychological well-being and development and lead to captive neuroses.

Denying animals the opportunity to engage in species-typical behavior, such as climbing, foraging, social grooming, and play, is also a significant source of stress. Louie is currently at an age when he should be spending his days with other chimpanzees, playing, grooming, and learning species-typical behaviors. Instead, he is confined to a wire cage that lacks sufficient space, both horizontally and vertically, to allow him to express the physical behaviors of a chimpanzee, and he is deprived of appropriate enrichment items and experiences.

Tommy is apparently confined *indoors in isolation constantly*. Louie is also apparently confined indoors constantly during the colder months on the Upper Peninsula—for as long as nearly half the year. Chimpanzees are native to the tropical climate of Equatorial Africa. In contrast, the average daily maximum temperature in the Upper Peninsula is 24.6° in December and 20.5° in January, with average daily minimum temperatures below 10° and average snow accumulation of nearly 38 inches in each of those months. The average temperatures are similar during November, February and March. While captive chimpanzees can enjoy spending some time in the snow, their caretakers must provide additional enrichment to accommodate any increase in time spent indoors during those months. There is no indication that DeYoung Family Zoo—which does not provide Louie and Tommy an adequate outdoor environment and enrichment opportunities during warmer months and keeps them isolated from other chimpanzees—is making those necessary accommodations. In addition, captive chimpanzees who are not permitted outdoors at all, whether during the winter or throughout the year, are susceptible to vitamin D deficiencies and rickets. The apparent conditions in which Louie and Tommy are kept simply cannot provide either endangered chimpanzee with appropriate enrichment, space, and opportunities to engage in species-specific behaviors. As owner/director of DeYoung Family Zoo, Harold DeYoung directly controls the conditions in which Louie and Tommy are kept, including the specifications of the enclosures in which they are kept, the enrichment opportunities provided to them, the extent to which they are exposed to the public, and their interaction with other members of their own species.

The U.S. Department of Agriculture (USDA), which administers the Animal Welfare Act (AWA), a separate federal law that establishes the *minimum* animal-care and handling standards for both endangered and non-endangered captive animals used in exhibitions such as by DeYoung, has acknowledged that “[s]ocial interactions are considered to be one of the most important factors influencing the psychological well-being of most nonhuman primates.” USDA, Animal & Plant Health Inspection Service, *Final Report on Environment Enhancement to Promote the Psychological Well-Being of Nonhuman Primates* § IV.A (1999) [hereinafter “USDA Primate Report”]. Companions provide *more* than just social company. They supply “environmental novelty, multi-sensory stimulation, something to manipulate, and opportunities for cognitive challenge and control.” *Id.* § IV.A.10. Hence, “[a]ppropriate social enhancement is one of the most versatile and option-laden forms of enhancement we can provide” to chimpanzees. *Id.* Because “social primates are very much physical contact animals,” the USDA

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underscores that "[c]ontinuous full contact housing, in pairs or appropriately structured social groups allows primates to express sophisticated social adaptations." *Id.* § IV.A.9.

In addition, "[t]he social, developmental, and physical environment are interdependent in enhancing psychological well-being" of primates, and the components of the animal's physical environment "should combine to create opportunities for species-typical resting, exploration, play, and foraging, as well as social interaction and adjustments." *Id.* § IV.C. Adequate enclosure space "is not just a question of numeric dimensions or total volume, but also one of shape and design. The space must be structured to be useable and species-appropriate. This can be achieved through a variety of furnishings, projections, contours and floor coverings." *Id.* As such, "[u]se of legal cage size will not always meet an animal's behavioral requirements." *Id.* Environmental enhancement should therefore include opportunities to express species-typical behaviors, such as:

- Foraging, which provides chimpanzees with "[m]ental stimulation . . . by requiring them to complete cognitive tasks to obtain their food," *id.* § IV.D.1;
- Nest-building, *id.* § IV.C.7 ("Many chimpanzee experts consider the provision of bedding material to chimpanzees essential for their comfort");
- Climbing, *id.* § IV.C.6 (studies have found that of all primates, "chimpanzees used upper levels of enclosures and perimeter areas the most"), and
- Play and tool use, *id.* § IV.E.

Hence, regulations issued by the USDA to implement its obligations under the AWA require that animal exhibitors "develop, document, and follow an appropriate plan for environment enhancement adequate to promote the psychological well-being of nonhuman primates." 9 C.F.R. § 3.81. This plan must include "specific provisions to address the social needs of nonhuman primates of species known to exist in social groups in nature" and "must be in accordance with currently accepted professional standards, as cited in appropriate professional journals or reference guides." *Id.* "The central idea" of this regulation "is that nonhuman primates must be given an environment in which they can express the wide range of behaviors practiced by others of their species in nature. Their captive environments must be enhanced to give them opportunities to exhibit these behaviors. When such conditions are achieved, the intent of the Animal Welfare Act to promote their psychological well-being will be fulfilled." USDA Primate Report § II.E (1999).

Furthermore, 9 C.F.R. § 3.81(c)(1) mandates that "[i]nfants and young juveniles" must be provided with special considerations for environmental enhancement and § 3.81(c)(5) requires that great apes must have "additional opportunities to express species-typical behavior." The AWA regulations provide the absolute minimum standards that must be met in order to obtain a license to exhibit animals under that law, but compliance with the regulations does not indicate

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compliance with the ESA, which provides heightened protections to endangered species. Yet DeYoung has failed to meet even these minimum standards.

The DeYoung Family Zoo continues to deny Louie and Tommy an environment in which each can "express the wide range of behaviors" that chimpanzees exhibit in nature.³ Nor does it "create opportunities for species-typical resting, exploration, play, and foraging, as well as social interaction and adjustments." Since 2010, Louie has lived without another chimpanzee and is confined to a small, simple outdoor enclosure during warmer months and apparently to a tiny indoor space for several months of each year. For the past year, Tommy has apparently been confined indoors at all times with no other chimpanzee. Depriving Louie and Tommy of the social interaction and psychological stimulation fundamental to their physical, social, and psychological well-being constitutes a take in violation of the ESA.

To be sure, however, it would not remedy the violations for DeYoung to decide to house Louie and Tommy together. Because of the unpredictability of each's response to the other and the potential for Tommy, an approximately forty-year-old adult, to harm juvenile Louie—who has never lived with another chimpanzee and thus has not yet learned appropriate social behaviors—any introductions between Louie and Tommy, or between each and another chimpanzee, must be done by experts with the experience, knowledge, and resources to carry out such introductions safely. Harold DeYoung, his partner Carrie Cramer, and the DeYoung Family Zoo lack the fundamental training and experience to manage such an introduction, the facilities necessary for its safe execution, and the staff necessary to supervise the chimpanzees round-the-clock to ensure that one or both are not harmed. However, unlike DeYoung, the GFAS-accredited facility at which PETA has secured placement possesses all of those necessary resources: expert staff who have successfully introduced dozens of chimpanzees; state-of-the-art facilities that are designed for safe, gradual introductions; and a staff with both the numbers and the experience to oversee the animals before, during and for an extended period after their introduction to each other or potentially more compatible companions.

In addition, it would not remedy the violations but could instead lead to separate ESA violations for DeYoung to obtain other chimpanzees or transfer Louie and Tommy to another zoo or private party through interstate transactions, absent a permit issued only for limited purposes, not including for private ownership or public display. *See, e.g., Elephant Justice Project v. Woodland Park Zoological Soc'y, Inc.*, No. C15-0451-JCO (W.D. Wash. Apr. 7, 2015).

DeYoung exposes Louie to harassment by visitors.

For captive animals such as Louie, "[p]erhaps the greatest stressor[s] are those over which the animal has no control and from which they cannot escape." Kathleen Morgan & Chris Tromborg, *Sources of Stress in Captivity*, 102 *Applied Animal Behav. Sci.* 262, 264 (2007). In primates, the presence of human visitors has been shown to increase aggression and reduce species-typical behavior such as grooming, foraging, and play in chimpanzees. *Id.* at 280.

³ The USDA has cited DeYoung for lack of an environmental enhancement plan for nonhuman primates. USDA Inspection Report 1 (June 29, 2010). While there hasn't been a recent citation for lack of an enrichment plan, citations are completely discretionary and their absence does not indicate compliance.

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"[A]versive experiences with humans result in animals that are more fearful of humans and more distressed by human presence, and this is reflected both behaviorally and physiologically." *Id.* at 281. For this reason, the USDA recommends that "[f]or primates on public display, there is no reason not to maintain long distances between the viewing public and the primate." USDA Primate Report § IV.C.6 (1999).

In the outdoor enclosure at the DeYoung Family Zoo where he is kept, Louie is subjected to the gaze, chants, or other noise of visitors who have come to gawk at him. Louie has reacted in such situations by displaying and throwing sand or dirt at visitors. Subjecting Louie to harassment by visitors constitutes a take in violation of the ESA.

Please be advised that the conditions set forth herein violate the ESA's prohibition on the "take" of Louie and Tommy. Unless the violations described herein cease immediately, PETA and McDowell intend to file suit against the DeYoung Family Zoo under the ESA at the expiration of sixty (60) days following October 28, 2016. Pursuant to the ESA, the plaintiffs will seek declaratory relief and an injunction against continued violations, including, but not limited to, requesting that the court order the transfer of Louie and Tommy to a GFAS-accredited sanctuary, as well as attorney's fees and litigation costs.

As discussed above, PETA has secured a place for Louie and Tommy at a GFAS-accredited sanctuary. Should the DeYoung Family Zoo wish to cure the violations described herein and thereby avoid litigation, it should contact me immediately in order to facilitate placement. Any and all communication related to this matter should be directed to me.

Sincerely yours,

MADDIN, HAUSER, ROTH & HELLER, P.C.


Jonathan B. Frank

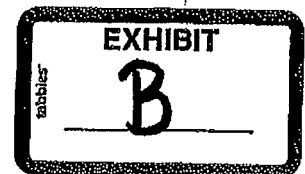
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Urge the DeYoung Family Zoo to Retire Louie and Tommy to a Reputable Sanctuary!



ANIMALS ARE **NOT OURS**
TO EAT, WEAR, EXPERIMENT ON, USE FOR
ENTERTAINMENT, OR ABUSE IN ANY OTHER WAY.

**Urge the DeYoung Family Zoo to Retire Louie and Tommy
to a Reputable Sanctuary!**





In the Upper Peninsula of Michigan, there's a dreadful roadside attraction called the DeYoung Family Zoo, where a young, energetic chimpanzee named Louie and an adult chimpanzee named Tommy are apparently being kept in solitary confinement. Louie was shipped to Michigan as an infant, and rather than growing up with his mother, he was forced to be a prop for photo ops at the roadside zoo. Tommy was kept in a small trailer park in New York before he was transported to the DeYoung Family Zoo, where he is apparently kept inside most—if not all—of the time. It's time that Louie and Tommy got the social stimulation, enrichment, and care that they need at an accredited sanctuary.

Chimpanzees are highly social animals who live in large groups in the wild. Youngsters wrestle with and playfully chase each other and follow their mothers around everywhere while they learn how to find food and make tools. They aren't weaned until they're 4 or 5 years old, and male chimpanzees never leave the group that they're born into, so the mother-son bond is extremely strong. Louie was never afforded the opportunity to know his mother, and just like humans, he and other chimpanzees are capable of suffering from loneliness, frustration, and depression. When he grew too big to be used for photo ops, the DeYoung Family Zoo put him on display for gawking tourists. Public records indicate that Tommy has lived at the roadside zoo for over a year—and it's likely that he hasn't been outside since the day that he arrived.

Louie and Tommy deserve a chance at a sanctuary life—like Iris, who was once isolated in a roadside zoo but now enjoys space to roam and the companionship of her chimpanzee friends at Save the Chimps.

The DeYoung Family Zoo has denied Louie and Tommy the opportunity to satisfy their most basic physical, social, and psychological needs. They deserve to live in an environment where they can run and play with other chimpanzees. PETA has notified the roadside zoo that it intends to file a lawsuit against it on behalf of Louie and Tommy, alleging that isolating them from other chimpanzees and denying them the opportunity to engage in species-specific behavior violates the Endangered Species Act—which makes it unlawful for chimpanzees to be harmed or harassed. **Speak up today and urge the roadside zoo to release Louie and Tommy to an accredited sanctuary, where they could enjoy social stimulation, an abundance of enrichment, and ample space in which to roam, climb, and play outdoors year-round.**

Please feel free to use our sample letter, but remember that using your own words is always more effective.

Help Louie!

All fields in bold are mandatory.

First Name

Last Name

E-Mail

BECOME A PETA FIRST RESPONDER (OPTIONAL)

Mobile Phone (Optional)

☐ I agree to the texting T&Cs. Message and data rates may apply.

Urges DeYoung Zoo to Retire Louie and Tommy to an Accredited Sanctuary | Page 3 of 3

SEND MESSAGE

By submitting this form, you are agreeing to our collection, storage, use, and disclosure of your personal info in accordance with our [privacy policy](#) as well as to receiving e-mails from us.

Subject

Please Release Louie and Tommy to an Accredited Sanctuary

Message

I am writing to urge you to allow Louie and Tommy to be transported to an accredited sanctuary immediately, where they would have the opportunity to enjoy the companionship of other chimpanzees, climb trees, run, and forage for food in an expansive habitat. They deserve more than to spend their days in cramped spaces and be forced to stay indoors during harsh Upper Peninsula winters.

Louie and Tommy didn't choose to be used for entertainment, and it's shameful to continue to deny them the opportunity to thrive in a beautiful sanctuary with other members of their species as well as benefit from expert care and an expansive environmental enrichment program. An accredited sanctuary stands ready to provide them with a permanent home that will meet all their needs. Please take advantage of this unique opportunity without further delay and make the compassionate decision to do what's best for Louie and Tommy. Thank you.



(<http://www.peta.org>)

People for the Ethical Treatment of Animals

501 Front St., Norfolk, VA 23510 | 757-622-PETA (7382) | 757-622-0457 (fax)

PETA is a nonprofit, tax-exempt 501(c)(3) corporation (tax ID number 52-1218336).

Case 2:16-cv-00282-PLM-TPG ECF No. 1-3 filed 12/27/16 PageID.18 Page 1 of 1




Marti M.
Iron Mountain, MI

0 friends

5 reviews

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-  Follow Marti M.

 6/16/2014

I am appalled at the glowing reviews of this zoo! It is in terrible shape, many of the animals confined in much-too-small cages. The parrots are out in the heat & one cockatoo was running around loose. When I alerted a staff member, he said, "what's a cockatoo?"!!! Some of the animals are in "pace mode" which is what neglected animals do for stimulation. These animals should all be relocated to animal reserves and this place closed down.

Was this review ...?



Useful 14



Funny 5



Cool

EXHIBIT

C

tabbies



PETA warns DeYoung Family Zoo of impending lawsuit over alleged treatment of chimpanzees

By Wil Hunter | wil.hunter@upmatters.com (<mailto:wil.hunter@upmatters.com>)

Published 11/16 2016 05:18PM

Updated 11/16 2016 06:12PM

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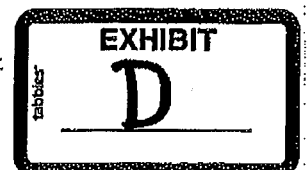
WALLACE - The following is a release from PETA, People for the Ethical Treatment of Animals, in regards to a potential lawsuit with the DeYoung Family Zoo for their improper treatment of two chimpanzee's at the zoo:

"Last week, PETA sent an official notice to the DeYoung Family Zoo—a notorious roadside zoo where two chimpanzees, Louie and Tommy, are apparently being kept in isolation—warning the facility of its intent to sue under the Endangered Species Act (ESA), which requires plaintiffs to inform potential defendants at least 60 days prior to legal action.

In its letter, PETA contends that denying highly social primates the ability to lead active, stimulating lives and engage in species-specific behavior—as well as allowing visitors to yell and gawk at Louie—all constitute violations of the ESA, which makes it unlawful for chimpanzees to be harmed or harassed.

To call attention to the plight of these chimpanzees, actor Andy Serkis—known for his performances as great-ape characters in *Rise of the Planet of the Apes* and *King Kong*—narrates a new PETA video that tells the story of Louie, who has lived in isolation at the roadside zoo for nearly all his young life. (https://www.youtube.com/watch?v=oZ_Kt_t0eFo)

In an exclusive interview with PETA (<http://www.peta.org/blog/andy-serkis-voices-lonely-chimpanzee/>)—whose motto reads, in part, that "animals are not ours to use for



entertainment"—Serkis reveals what made him take on the role of Louie: "I've obviously over the years become very connected to stories and the lives of the great apes in our world, and this story really blew my mind," he says. "The fact [is] that here we have a chimpanzee shipped to a small family zoo, where he's now kept in a cage, completely isolated, unable to socialize, living a very lonely and miserable existence, and it just broke my heart. It's the same as treating a human being [that] way—it really is."

For more information, please visit [PETA.org \(http://www.peta.org/\)](http://www.peta.org/)."

Local 3 News reached out to DeYoung Family Zoo three times, but received no response.

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DeYoung Zoo may face suit

BECKY DeWITT, EagleHerald staff writer

Wednesday, November 16, 2016 9:00 PM

WALLACE—The De Young Family Zoo, a roadside staple for many, has been warned by the People for Ethical Treatment of Animals (PETA) of an impending lawsuit. This notice specifically concerns the two chimpanzees, Louie and Tommy.

PETA states it sent a notice to the DeYoung Zoo in Wallace last week of its intent to sue under the Endangered Species Act (ESA). The act requires the plaintiffs to inform the potential defendants at least 60 days prior to legal action.

According to the press release provided by PETA, it contends "that denying highly social primates the ability to lead active, stimulating lives and engage in species-specific behavior, as well as allowing visitors to yell and gawk at Louie, all constitute violations of the ESA which makes it unlawful for chimpanzees to be harmed or harassed."

In a PETA interview, available to view on YouTube, actor Andy Serkis (*Rise of the Planet of the Apes* and *King Kong*) said, "I've obviously, over the years, become very connected to stories and the lives of the great apes in our world, and this story really blew my mind. The fact is that here we have a chimpanzee shipped to a small family zoo, where he's now kept in a cage, completely isolated, unable to socialize, living in a very lonely and miserable existence, and it just broke my heart. It's the same as treating a human being that way."

Elizabeth Custalow, counsel for the PETA Foundation, said that they first became aware of Louie in 2010. Louie was shipped to the DeYoung Zoo as an infant, and at that time was the sole chimpanzee.

"Previous attempts were made to reach out to Mr. DeYoung to place Louie in an accredited sanctuary where Louie could be introduced to his own species and be given the opportunity to run around, climb trees and be a chimpanzee," Custalow said. "We had an action alert and asked people to contact the zoo."

Several complaints were filed in the past concerning the welfare of the animals by PETA under the Animal Welfare Act, Custalow said. Under that act, minimal standards are set and the agency responsible for enforcement has discretion as to what met the standard.

No legal action was available until now, Custalow explained, as the ESA did not extend to chimps in captivity. He said that caveat changed in September of 2015 and that PETA again reached out asking DeYoung to place Louie in an accredited sanctuary. By this time the zoo had also acquired the adult chimpanzee, Tommy, and he was included in this request as well. "We told Mr. DeYoung that if he would voluntarily place Louie and Tommy in an accredited sanctuary that PETA would pay for any associated costs and drop the lawsuit. He declined the offer."

Custalow explained how important it was for the great apes like Louie and Tommy be with others of their species. "They form families," he said. "They are given the opportunity to explore their surroundings, live in multi-generational communities, just as if they were in the wild. It is so important for their mental well being to be part of a community."

Custalow explained that it was important to move Louie as soon as possible saying that while approximately 6 years old, he is still considered a juvenile and more likely to be able to connect with a family unit and he could soon start to display mental health neurosis if he continues in his current environment.

As for Tommy, being an adult male, it may be harder but certainly not out of the question, Custalow said. "We have an accredited sanctuary that is poised to take on both of these chimps. We have rescued several adult chimps in the last year and they have all been introduced to accredited sanctuaries. One chimp, who had been pulling out his hair, has stopped and is growing hair out," he said.

There is allegedly sound evidence and science that backs up the claims by PETA, which contends that many studies cite various issues that isolated chimps develop such as Post Traumatic Stress disorder and that anxiety issues, excessive hair pulling, throwing feces, self harm and other mental health disorders, have all been well-documented.

The DeYoung Zoo has been entertaining families for years. Many people have enjoyed how close they could get to the animals and in some circumstances even hold them.

Marinette, WI
Updated 6:45 AM CST TUE DEC 27 2016
Tuesday Wednesday Thursday Friday

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EXHIBIT

E

With no formal background in animal husbandry or zoological studies, Buddy De Young decided to open the zoo to share his love of exotic animals. A few years after De Young Zoo was open, he met Carrie Cramer and together they expanded the zoo to include several tigers, lions, bears and chimpanzees.

A message left for the DeYoung Zoo was not immediately returned.

Prev 1 2 3 Next

23 Comments

Newest Oldest

Peta has lied alot on their video and their Website. These animals are their life. 24/7 raising the money to do the best for the zoo as they cant Not only for the zoo but for the public to welcome and share what they love the most their animals! Carrie and Bud save animals not harm them!!!

Angela

12/4/2016 11:48:00 AM

Report this comment

For everyone who has all their negative comments I have to ask. Do you really know Carrie and Bud? I have had the pleasure to meet Carrie outside of the zoo at a friend's and to hear about Louie that wasn't just a chimpanzee that is their baby. Now Tommy too! They have each other, Bud and Carrie!

Angela

12/4/2016 11:30:00 AM

Report this comment

We love this place. We make a point to stop in several times a year. Not only all the love Bud and Carrie have for all these animals but the education they share of the animals. They devote their lives to do everything/anything for all their animals. You can see everything they earn goes right bac

Lisa Lamal

11/30/2016 11:29:00 AM

Report this comment

PETA is cying wolf. De Young Zoo is an educational and up-close experience for people of all ages. We are lucky to have such a facility nearby. Love visiting this zoo.

Michelle Meyer

11/28/2016 7:33:00 AM

Report this comment

We need to support the DeYoung zoo and fight these idiots.our entire community can make a difference. They take pride in every animal they have at the zoo. Very dedicated to socializing them with people and their own species. This is ridiculous

Chris Paris

11/24/2016 3:16:00 PM

Report this comment

So, Tommy lived in a trailer and only had a T.V for companionship and PETA didn't care until DE Young Zoo decided to show this animal some love? Makes no sense.

Jamie C.

11/23/2016 5:10:00 PM

Report this comment

This is the best zoo around leave them alone and help all the dogs out there being abused around this country!! We have been to this zoo a number of times and tell everyone we know that love animals to go and they. Loved it too...no cement cages. Keep up the great work you do Bud and Carrie!!

Julie

11/19/2016 9:52:00 PM

Report this comment

Love your zoo. Great place to learn about the various animals.

Ethol Mizejowski

11/19/2016 5:59:00 PM

Report this comment

Anyone saying anything negative about this zoo is wrong! The Hippo's space has been made bigger along with a bigger swimming area. They adopted a female Hippo this past may. The wolves are healthy looking and not beaten down. Peta needs to take care of real problems and not cause problems.

Angie

11/19/2016 3:22:00 PM

Report this comment

I have been to this place many times, I've seen them interact with the chimpanzees, I've seen him opening boxes and making nests on his hammock with his blanket. PETA, is a notorious liar. This organization believes we shouldn't be eating meat, and they euthanize 90% of there rescued animals.

Tim

11/19/2016 12:09:00 PM

Report this comment

Please fill out the form below to submit a comment.